United Nations S/2008/324

Security Council

Distr.: General
14 May 2008

Original: English

# Letter dated 13 May 2008 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities addressed to the President of the Security Council

I have the honour to transmit herewith the eighth report of the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004) and extended by resolutions 1617 (2005) and 1735 (2006).

The report was submitted to the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities on 31 March 2008 in accordance with Security Council resolution 1735 (2006), and is currently being considered by the Committee.

I should be grateful if the attached report could be brought to the attention of the Council members and issued as a document of the Security Council.

(*Signed*) Johan **Verbeke**
Chairman
Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

08-34188 (E) 160508

Original: English

2 April 2008

# Letter dated 31 March 2008 from the Coordinator of the Analytical Support and Sanctions Monitoring Team addressed to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

The Analytical Support and Sanctions Monitoring Team established pursuant to Security Council resolution 1526 (2004) and extended by Security Council resolutions 1617 (2005) and 1735 (2006) concerning Al-Qaida and the Taliban and associated individuals and entities has the honour to transmit to you its eighth report, in accordance with resolution 1735 (2006).

The Monitoring Team notes that the document of reference is the English original.

(*Signed*) Richard **Barrett**
Coordinator

# Report of the Analytical Support and Sanctions Monitoring Team pursuant to resolution 1735 (2006) concerning Al-Qaida and the Taliban and associated individuals and entities

## Contents


| | | Page |
|---|---|---|
| I. | Summary | 5 |
| II. | Overview | 5 |
| | A. Al-Qaida | 6 |
| | B. Al-Qaida affiliates | 7 |
| | C. Al-Qaida use of the Internet | 8 |
| | D. The Taliban | 10 |
| III. | Consolidated List | 12 |
| | A. Lack of identifiers | 12 |
| | B. Photographs | 14 |
| | C. Dead people on the List and the annual review of listings | 14 |
| | D. Distribution of the List | 15 |
| | E. Other suggested improvements | 16 |
| IV. | Implementation of the sanctions | 16 |
| | A. The sanctions regime under challenge | 16 |
| | B. Public statements of the case | 17 |
| | C. Handling requests for information from Member States | 18 |
| V. | Assets freeze | 19 |
| | A. Update on frozen assets | 19 |
| | B. Non-binding, non-exhaustive list of targeted assets | 19 |
| | C. Risk of swapping interests in frozen funds for goods or services | 20 |
| | D. Treatment of incoming funds in favour of listed parties | 20 |
| | E. Scope of the assets freeze | 20 |
| | F. General indicators of terrorist financing | 21 |
| | G. Use of fraudulent identities to finance terrorism | 22 |
| VI. | Travel ban | 22 |
| | A. INTERPOL-United Nations Security Council special notices | 23 |
| | B. Other recommendations | 25 |

VII. Arms embargo ..... 25
A. Implementation of the arms embargo ..... 25
B. Scope of the arms embargo ..... 26
C. Related materials ..... 26
D. Illicit trafficking of arms by air ..... 27
E. Acquisition of arms by intermediaries and third parties ..... 27
F. Military training and recruitment as part of the arms embargo ..... 27
G. The Internet and the arms embargo ..... 28
H. Military command and control networks and the arms embargo ..... 28
I. Other recommendations ..... 29
VIII. Activities of the Monitoring Team ..... 29
A. Visits ..... 29
B. Talks and meetings ..... 30
C. Regional meetings with intelligence and security services ..... 30
D. International and regional organizations ..... 31
E. Cooperation between the Security Council and INTERPOL ..... 32
F. Cooperation with other Security Council committees ..... 32
IX. Reporting by Member States ..... 34
A. Reports submitted under resolution 1455 (2003) ..... 34
B. Checklist ..... 34
X. Other issues ..... 35
Committee's website ..... 35
Annexes
I. Litigation by or relating to individuals on the Consolidated List ..... 36
II. Selected documents of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban ..... 38

# I. Summary

1. The present report, the last under the Monitoring Team's current mandate, attempts to take stock of the Al-Qaida/Taliban sanctions regime and make proposals for its further development. It notes that the Al-Qaida and Taliban leadership continues to try to exert control over a movement that it inspires but does not direct. It also notes the growing problem in Afghanistan and the Afghanistan/Pakistan border area, and a continuing threat in North Africa, with no reduction in activity elsewhere. It sees the failure of many plots and attacks as confirmation of the need to prevent Al-Qaida and the Taliban from passing their skills and experience to a new generation of supporters.

2. The report examines the continuing problems associated with the Consolidated List of individuals and entities subject to the sanctions measures and concludes that these seriously undermine implementation; but at the same time it notes the many improvements that have been made. The report also draws attention to the legal challenges to the implementation by Member States of the measures, and the likely consequences should they be successful. It examines the three sanctions measures and how they might become more effective.

3. The Team sees no reduction in the resolve of the international community to address the threat posed by Al-Qaida, the Taliban and their associates, or any doubt that the United Nations should play a leading role. The Security Council sanctions regime is at the forefront of the operational effort at the international level but it is Member States that are responsible for the security of their citizens. The sanctions regime must retain their confidence and support, both at a governmental and a public level. The Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban (hereinafter referred to as "the Committee") has done much to provide Member States with opportunities to express their views, whether directly or through the Team. And the Team considers that it is only through such dialogue that the Committee can develop the regime to respond to the changing threat, improve implementation of the measures, and reassure international opinion that the sanctions are appropriate to the challenges posed by Al-Qaida, the Taliban and their associates.

# II. Overview

4. International opinion continues to regard the threat from Al-Qaida-related[1] terrorism and the Taliban as significant. At its meeting in Tunis in January 2008, the Council of Arab Interior Ministers identified terrorism as a critical threat to Arab States. A United Nations report issued in March 2008 recorded a rise of 30 per cent in incidents of insurgent and terrorist activity in Afghanistan in 2007 over 2006.[2]

[1] The permanent reference number is indicated for listed or previously listed individuals and entities at first mention; thereafter, they are indicated by *. All other names may be assumed to be unlisted. As Al-Qaida, Usama bin Laden and the Taliban are named in the Security Council resolutions, they are simply mentioned by name.

[2] Figures given were 566 per month on average in 2007, compared to 425 in 2006 (A/62/722-S/2008/159, para. 17). There were 381 recorded incidents in January 2008, and 452 in February. These months normally see fewer than average incidents because of the cold weather. Source: United Nations Assistance Mission in Afghanistan (UNAMA).

However, although the situation in Afghanistan, as in other conflict areas, shows little sign of early resolution and although many thousands of people around the world are still being influenced by Al-Qaida's message, the popular appeal of the Al-Qaida leadership and support for its tactics appear to be on the wane.[3]

## A. Al-Qaida

5. Other violent radicals increasingly see Al-Qaida as a marginal force in real political terms. Many now understand that what Al-Qaida claims to be religious duty, or "jihad", is nothing more than criminal violence, often directed against fellow Muslims. They have come to regard the assumption by Al-Qaida fighters of the right to declare other Muslims apostate (takfirism) not only as arrogant but also as deeply offensive.

6. There have been several significant statements condemning Al-Qaida, notably in October 2007 by the highest religious authority in Saudi Arabia, Sheikh Abd al-'Aziz bin Abdallah Aal al-Sheikh, and the month before by Sheikh Salman al-Awdah, a prominent independent cleric known for his defiant and radical criticism of the established regime. Other former allies have also turned against Al-Qaida, most importantly the highly influential Islamic Jihad ideologue and one of Aiman al-Zawahiri's (QI.A.6.01) oldest and closest associates, Sayyid Imam al-Sharif, also known as Doctor Fadl, who is in prison in Egypt. In his "Document of right guidance for jihad activity in Egypt and the world", which appeared in November 2007, he argued that Al-Qaida had overreached itself and that its acts violated Islamic law. The inference that Usama bin Laden and Al-Zawahiri* could therefore be tried in absentia by an Islamic court is an idea which deserves support. Replies by Al-Zawahiri*[4] and other prominent Al-Qaida leaders, such as Muhammad al-Hakaymah[5] and Abu Yahya al-Libi,[6] show the extent of Al-Qaida's concern at this ideological challenge.

7. The increasingly public rejection of Al-Qaida's credentials by such figures, and the work of several States to ensure that the Al-Qaida message is exposed as falsely based, should be reinforced by action elsewhere. This includes avoiding the use of terms that appear to accept Al-Qaida's claims of religious justification; the Team continues to argue that the use by non-Muslim commentators and politicians of religious terms when describing Al-Qaida, however convenient, commonplace or well-intentioned, makes it harder to undermine its message and to isolate it from its target community.

---

[3] For example, a survey conducted in Pakistan for Terror Free Tomorrow: The Center for Public Opinion in January 2008 showed approval for Usama bin Laden at 24 per cent, compared with 46 per cent in August 2007, while backing for Al-Qaida fell to 18 per cent from 33 per cent, and for the Taliban to 19 per cent from 38 per cent (see www.terrorfreetomorrow.org, "Pakistan: new poll before 2008 elections"). According to a July 2007 report by the Pew Global Attitudes Project, large and growing numbers of Muslims in the Middle East and elsewhere are rejecting Islamic extremism (*A Rising Tide Lifts Mood in the Developing World*, available at http://pewglobal.org/reports/display.php?ReportID=257).

[4] *"A Treatise Exonerating the Nation of the Pen and the Sword from the Blemish of the Accusation of Weakness and Fatigue"* (released 2 March 2008).

[5] "History of intellectual retreats in Egyptian prisons" (released 10 December 2007).

[6] Video released on 9 March 2008.

8. While Al-Qaida as an organization has not developed and its core leaders have been unable to focus their supporters on key operational issues or guide them towards specific action, Al-Qaida as a movement has continued to flourish, inspired by a general message of resistance to actual or perceived injustice. Supporters are often recruited face-to-face by existing radicals in areas where Internet penetration is low, but elsewhere the Internet plays an important role in introducing people to violent radicalism and leading them to join like-minded peers in existing or new cells. The demographics of Al-Qaida supporters have changed, with new followers being younger, sometimes no older than 15 years of age, and therefore less educated than their predecessors. They are also more ignorant of and appear less interested in religious teachings.[7] The inclusiveness of the Al-Qaida message, as disseminated through the Internet, allows a wide range of potential supporters to see in it a reflection of their own personal grievances.

9. Furthermore, the lack of an organizational structure makes the detection of new cells particularly difficult for the counter-terrorist community, which is generally not so much concerned by the strategic objectives of the leadership as by the less coherent aspirations and actions of its followers. While Al-Qaida leaders, constrained by international action, may be unable to translate their support into coordinated violence under their control, they continue to attract followers, some of whom are determined to commit terrorist acts in their name, with no need to see their actions as part of a wider political programme. It does not require more than the occasional bombing of a random target to top up levels of public fear and anxiety.[8]

## B. Al-Qaida affiliates

10. Al-Qaida in Iraq, also known as Jama'at al-Tawhid wa'al-Jihad (QE.J.115.04), remains the most active group affiliated with Al-Qaida, though it has been hard hit by the Awakening Councils and has lost further support through its increasing criminality. Although it is closely identified with the wider insurgent movement known as the "Islamic State of Iraq",[9] which continues to claim interest in a broader, international movement,[10] Al-Qaida in Iraq appears to be breaking down into disconnected groups and the Team has seen no evidence of consistent contact with the Al-Qaida leadership. It attracts fewer fighters from outside the country, and the journey in any case has become more difficult as security forces both inside and outside Iraq have closed down facilitators and disrupted routes.[11] The United States Army reported in early March 2008 that the flow of foreign fighters into Iraq had

[7] These are the general conclusions of security officials from many areas who are in contact with the Team.

[8] Opportunistic acts by unconnected cells accord with a strategy advocated by one of the major Al-Qaida ideologues, Abu Musab al-Suri, also known as Mustafa Setmariam Nasr, as set out in "The call to global Islamic resistance" (published in 2004).

[9] In an audio statement in December 2007, Abu Omar al-Baghdadi, the purported leader of the Islamic State of Iraq, claimed that the two groups had joined (English transcript available at the NEFA Foundation website, www.nefafoundation.org). In an address released on 16 December 2007, Zawahiri said that there was no such thing as Al-Qaida in Iraq and that the Islamic State of Iraq was the sole affiliate there.

[10] In an audio statement in July 2007, Al-Baghdadi attacked the Islamic Republic of Iran and expressed support for associates in Lebanon, and in another statement in February 2008, he offered support for fighters in the Palestinian territories.

[11] In his audio statement of 4 December 2007, Al-Baghdadi said "only 200 ... are left in our beloved Iraq".

been reduced by about 50 per cent over the course of the previous four to six months, and stood at 40 or 50 a month.[12] Some reports to the Team suggest that a number of foreign fighters have left Iraq for Afghanistan or have returned to their home countries.[13]

11. The affiliation with Al-Qaida of the Organization of Al-Qaida in the Islamic Maghreb (AQIM) (QE.T.14.01) and the Libyan Islamic Fighting Group (LIFG) (QE.L.11.01), which the Al-Qaida leadership acknowledged in September 2006 and November 2007, respectively, does not appear to have led so far to a major inflow of foreign fighters to support their operations, though they have benefited from offering to help fighters from the region to travel to Iraq and then deploying them locally. Fighters who have left Iraq for North Africa appear in the main to be nationals returning home, but are nonetheless dangerous for that. Although the Al-Qaida leadership may have seen the link-up with AQIM* and LIFG* as a way to broaden its reach, the public affiliation with Al-Qaida has caused divisions within the groups themselves, with some arguing for a purely regional focus and others for a global campaign. The authorities in both Algeria and the Libyan Arab Jamahiriya have been quick to exploit the divisions,[14] while continuing to bear down heavily on committed fighters.[15] The arguments have not stopped the attacks, with the most serious occurring in Algiers on 11 December 2007, when United Nations offices and the Constitutional Court were targeted by suicide bombers.

12. Attacks and arrests associated with Al-Qaida have also occurred elsewhere since the Team last reported in September 2007, including in Belgium, France, Germany, India, Indonesia, Lebanon, Mali, Mauritania, the Philippines, Saudi Arabia, Somalia, Tunisia, Turkey and Yemen. This confirms that there is no shortage of Al-Qaida supporters who aspire to be terrorists, and who are ready to die in the act, but without the direction of the leadership and the opportunity to train in bomb-making and security awareness, they have, so far, been less effective than they might have been. This may change if local groups manage to link up with veterans from Afghanistan, Iraq or Somalia, or to find ways to send their members abroad for training. The challenge for the international community will be to prevent this.

## C. Al-Qaida use of the Internet

13. Al-Qaida leaders continue to rely heavily on the Internet, in particular to pursue the intensive propaganda campaign that constitutes a major part of their strategy. Bin Laden has issued five messages,[16] Aiman al-Zawahiri* five statements

[12] Interview of General Petraeus, 5 March 2008, available at www.mnf-iraq.com/index.php?option=com_content&task=view&id=17471&Itemid=1.

[13] Intelligence briefings by Member States.

[14] In February 2008, the Libyan authorities were reported to have reached an agreement with imprisoned LIFG* leaders; European supporters of LIFG* are reported not to have approved of the affiliation with Al-Qaida; Algerian media reports suggest that Mokhtar Belmokhtar (QI.B.136.03) and others may have split from AQIM* and that Abdelmalek Droukdel (QI.D.232.07) faced challenges as leader of AQIM* in September 2007.

[15] For example, Abderahmane Bouzegza, believed responsible for the attacks of 11 December in Algiers, was killed in late January 2008.

[16] "A message to our people in Iraq" (released 22 October 2007); "Message to the peoples of Europe" (released 30 November 2007); "The way to contain the conspiracies" (released 29 December 2007); "May our mothers be bereaved ... if we fail to help our Prophet" (released 19 March 2008); and "The way for the salvation of Palestine" (released 21 March 2008).

and one book,[17] and Abu Yahya al-Libi five messages since 1 October 2007.[18] Other members of the Al-Qaida leadership, such as Mustapha Abu el-Yazeed (QI.O.11.01),[19] Muhammad al-Hakaymah[20] and Sheikh Muhammad Yasser,[21] have also published statements, and Abu Omar al-Baghdadi, the name used by the purported leader of the Islamic State of Iraq, issued two major audio speeches.[22] Al-Qaida in the Islamic Maghreb,* the Al-Qaida-affiliated Islamic State of Iraq and Ansar al-Sunna (also known as Ansar al-Islam) (QE.A.98.03) have been releasing a steady flow of communiqués, statements and videos to claim responsibility for and keep a record of their operations. Al-Qaida has continued to publish its magazines, "Echo of the Jihad" and "Vanguards of Khorasan". Al-Qaida in Yemen, under the leadership of Nasser al-Wahayshi, has begun to take on a higher public profile and has published the first two issues of a new online magazine, "Sada al-Malahem". Zawahiri* dedicated a long section of his message of 16 December 2007 to those engaged in propaganda work and emphasized the vital role played by what he calls the "jihadi media".[23]

14. As pointed out by Zawahiri,* the Al-Qaida leadership manages to maintain its high public profile thanks to an intricate network of people involved in the production, translation and distribution of its propaganda over the Internet. This network continues to use media outlets such as the Al-Sahab media foundation, Global Islamic Media Front (GIMF), Al-Fajr information centre or internal media committees — in the case of the Organization of Al-Qaida in the Islamic Maghreb,* Islamic State of Iraq and Ansar al-Sunna* — to distribute material via open or password-protected forums such as Al-Ekhlaas, Al-Hesba or Al-Boraq.

---

[17] "Unity of the ranks" (featuring also Abu Laith al-Libi; released 3 November 2007); "Annapolis, the betrayal" (released 14 December 2007); "A review of events, fourth interview with Al-Sahab" (released 16 December 2007); "An elegy to the martyred commander Abu Laith al-Libi" (released 27 February 2008); *A Treatise Exonerating the Nation of the Pen and the Sword from the Blemish of the Accusation of Weakness and Fatigue* (book rebutting Sayyid Imam's rejection of the legitimacy of violent jihad, released 2 March 2008); and "Rush to help our people in Gaza" (released 23 March 2008).

[18] "The closing statement for the religious training that was held at one of the Mujahideen centres" (released 7 November 2007); "Going forth" (released 18 December 2007); "Sermon Eid al-Adha 1428" (released 23 January 2008); "Eulogy of Abu Laith al-Libi" (released 3 March 2008); "I am not in the [business of] deception and no imposter will deceive me: a response to the guidance document [of Sayyid Imam]" (released 9 March 2008).

[19] "Light and fire: an announcement to the Ummah", eulogy of Abu Laith al-Libi (released 6 February 2008); "They lied ... now the fight has come" (released 6 March 2008).

[20] Statement regarding Sayyid Imam's criticism (released 26 November 2007); "History of intellectual retreats in Egyptian prisons" (released 10 December 2007).

[21] "The American is an infidel fighting the Muslims. Hence, the Muslims must fight him everywhere" (released 21 October 2007).

[22] "As for the foam, it passes away as scum" (released 3 December 2007); and "The religion is sincere advice" (released 13 February 2008).

[23] "I caution everyone who is interested in acquainting himself with the truth about what the mujahideen publish and say ... to depend solely on the full transcripts of the mujahideen's releases which they publish on the Internet" ... "Jihadi information media are today undergoing an extremely critical battle against the Crusader-Zionist enemy ... [and] Allah has favoured the mujahideen with victory in this ideological-propaganda battle". Commending those working in the "jihadi media", he declares: "I remind those unknown soldiers that they are on a great frontier of Islam and that they are demolishing the myths and fantasies which Western and Eastern propaganda kept transmitting to the ears of our listeners, the minds of our thinkers and the curricula of our students".

15. The Team suggests that the Committee could consider listing such media outlets and the main individuals and propagandists behind them, on the basis that their Internet activities demonstrate an association with Al-Qaida, as defined by the Security Council in resolution 1617 (2005). This seems particularly relevant in instances in which they distribute material that might be considered an incitement to violence or that aims to recruit and train others to manufacture explosives or conduct bombings and suicide attacks, or where they aim to raise funds for listed entities. The Team also considers that the Council could call on Member States to take appropriate legal and practical measures to prevent the use of the Internet in ways which violate the sanctions measures imposed against Al-Qaida, the Taliban and their associates, and ensure that the assets freeze and the arms embargo are enforced in the virtual space. To be effective in the long term, and to be legitimate, such measures would, of course, need to accord with other obligations under international law, including human rights law.

## D. The Taliban

16. The will of the Taliban to continue the insurgency is unbroken,[24] and the sanctions appear so far to have had limited impact. None of the several Taliban commanders captured or killed since October 2007 was listed,[25] highlighting the growing gap between the actual leadership of the insurgency and the names that currently appear in the Taliban section of the Consolidated List.[26] In addition, the absence of any formal financial system in Afghanistan,[27] its porous borders and the limits to governmental authority make effective implementation of the sanctions measures particularly difficult. According to the United Nations Assistance Mission in Afghanistan (UNAMA), 36 of the 376 districts of Afghanistan remain largely inaccessible to Afghan officials (A/62/722-S/2008/159, para. 2).

17. Over 8,000 fatalities were recorded in Afghanistan in incidents involving insurgents throughout 2007 (A/62/722-S/2008/159, para. 17), compared to 6,000 killed in all kinds of violence in 2006. This increase in violence has continued into 2008, especially in the southern provinces. On 17 February 2008, at least 80 people were killed by a suicide attack in Kandahar province, making it the deadliest suicide attack by the insurgency to date. On the following day, another suicide attack killed

---

[24] For example, announcement by Mullah Baradar (TI.B.24.01) on the Taliban website in late February (source: www.alemara.org/markli-3-22-2-2008, retrieved by the Team on 12 March 2008).

[25] Mawlawi Islam Muhammadi (TI.M.90.01), a member of the Lower House of the Parliament since 2005, was assassinated in Kabul in January 2007. Press reports that Jalaluddin Haqqani (TI.H.40.01) died in the United Arab Emirates in June 2007 remain unconfirmed.

[26] Only 2 listed individuals were among the top 12 wanted by the Afghan National Army and the International Security Assistance Force (ISAF) in October 2007: Tohir Yuldashev (QI.T.36.01) and Sirajuddin Haqqani (TI.H.144.07). Only 19 listed individuals feature among the 58 key leaders identified by the Afghan Government. Only 2 of the 34 operational provincial commanders are listed: Sirajuddin Haqqani* and Manan Niyazi (TI.N.97.01). Information provided by the Government of Afghanistan via the United Nations Assistance Mission in Afghanistan.

[27] In late 2003, the Afghan Central Bank resumed licensing local and foreign commercial bank branches in Afghanistan, and the Afghanistan Banks Association (ABA) was established in September 2004. At present there are 14 licensed banks operating as members of the ABA (source: www.aba.org.af/about.asp).

at least 30. Suicide attacks and improvised explosive devices, rare in Afghanistan before mid-2005, are now commonplace, with an average of three suicide attacks occurring each week.[28]

18. Another rising trend has been the involvement of the Taliban in the drug trade. Despite the counter-narcotics activity of Afghan and international bodies, opium poppy cultivation continues on a massive scale. A survey conducted in February 2008 by the United Nations Office on Drugs and Crime suggested that the poppy crop in 2008 would approach the record levels set in 2007[29] when the total income from opium was estimated at $4 billion, of which 90 per cent was believed to go to traffickers and their facilitators.[30] Cannabis cultivation is expected to increase as well. There is an alliance of convenience between the Taliban and drug lords, with both having an interest in seeing a weak government and in corrupting central and provincial officials.

19. All poppy farmers who responded to the United Nations Office on Drugs and Crime survey in the south of the country said that they paid a tax of approximately 10 per cent of their income from poppy cultivation to groups which included the Taliban; this was not true for farmers in the central, north and north-eastern regions, where security conditions were better and the Taliban had less influence. The survey also noted a reduction in poppy cultivation in those areas.

20. Since the Team last reported in September 2007, there have been several narcotics-related incidents in areas in which the Taliban are strong. For example, in December 2007 large quantities of narcotics, heroin-producing equipment and precursor chemicals were discovered when Afghan forces and the International Security Assistance Force (ISAF) retook the town of Musa Qala. Local inhabitants reported that the Taliban had encouraged the construction of heroin laboratories under their protection and had levied a 10 per cent tax on the product. In February 2008, a ton of raw opium, about 20 kilograms of pure heroin and over 1,000 kilograms of chemicals were seized by Afghan forces and ISAF in a drug-processing plant controlled by insurgents in Helmand.[31] Later that month, Afghan forces and ISAF discovered and destroyed 1.5 tons of opium (worth $400 million) along with two large drug presses and other drug-related equipment in a compound in the upper Sangin Valley, in Helmand.[32]

21. By paragraph 12 of its resolution 1735 (2006), the Security Council encouraged States to identify drug traffickers who supported the Taliban and to submit their names for listing. While some States have looked further into doing so, and four names on the List do reflect an involvement in the drug trade,[33] no new name has yet appeared purely on the basis of such involvement. This suggests

---

[28] UNAMA, *Suicide attacks in Afghanistan* (2001-2007). There were 160 suicide attacks in 2007.

[29] *Afghanistan Opium Winter Rapid Assessment Survey 2008*, available at www.unodc.org/documents/crop-monitoring/Afghan-winter-survey-Feb08-short.pdf.

[30] In 2007, for the first time, the drug economy grew faster than the legal economy. United Nations Office on Drugs and Crime, *Afghanistan Opium Survey 2007 (October 2007)*, available at www.unodc.org/documents/crop-monitoring/Afghanistan-Opium-Survey-2007.pdf.

[31] Source: www.mod.uk/DefenceInternet/DefenceNews/MilitaryOperations/UkAndAfghanForcesSeizeTonneOfOpium.htm.

[32] Source: www.nato.int/isaf/docu/pressreleases/2008/02-february/pr080226-080.html.

[33] Sayyed Ghiassouddine Agha (TI.A.72.01); Zia-ur-Rahman Madani (TI.M.102.01); Abdul Salam Hanafi Ali Mardan Qul (TI.H.27.01); and Akhtar Mohammad Mansour Shah Mohammed (TI.M.11.01).

reluctance, for whatever reason, to submit such names, and the Team intends to examine this issue further and to report to the Committee as new information on the Taliban's contact with the drug trade becomes available.

22. While the Taliban remains an overwhelmingly Afghan movement, two groups of foreigners contribute to its success:[34] the Tehrik-e-Taliban and associated groups in Pakistan under the overall leadership of Baitullah Mehsud,[35] and other foreign fighters, mainly Uzbeks and Arabs, some of whom may have arrived recently from Iraq and who appear to be playing an increasingly important role as advisers.[36] Pakistani authorities have told the Team that in 2007 their security forces were the target of 40 suicide bombings, 50 improvised explosive devices, 129 rocket attacks and 8 ambushes. As a result, 1,045 soldiers were killed, 1,452 wounded and 692 civilians injured along with them. The Pakistani army launched 106 major operations against terrorists and insurgents during the year.

# III. Consolidated List

23. As at 31 March 2008, the Consolidated List[37] had 482 entries: 142 individuals associated with the Taliban, and 228 individuals and 112 entities associated with Al-Qaida. The Consolidated List remains the cornerstone of the sanctions regime. However, as the Team has noted in all its previous reports, the List has serious defects. It requires all Member States, under the active leadership of the Committee and with the help of the Team, to put this right; until that happens, the impact of the sanctions regime will continue to fade.

## A. Lack of identifiers

24. The most immediate task is to ensure that each entry on the List contains as much current detail as possible about the listed party, and certainly enough to allow a confident identification. Both government officials and representatives of the private sector, such as those of banks, who use the List on a regular basis, continue to complain that some entries lack the basic identifiers necessary to make any check against them worthwhile. At present, 57 entries for individuals do not contain a full name and date of birth; another 5 have a full name and date of birth, but nothing else; and 26 have a name, date and place of birth but no other identifiers, such as nationality, address or country of residence.

25. The Team's contacts have pointed out two consequences of these deficiencies. First, effective implementation of the sanctions regime is directly related to the quality of the information available on its targets. Second, limited information creates frustration and disaffection among the people responsible for checking the

[34] UNAMA statistics record the arrests of over 100 foreign insurgents by Afghan and international security forces in 2007. In March 2008, during a debate in the Security Council, an Afghan official referred to the apprehension of 1,000 terrorists, including foreigners (S/PV.5851).

[35] Officials briefing the Team.

[36] Officials briefing the Team and statements by two senior Al-Qaida commanders in the area: Mustapha Abu el-Yazeed,* on 6 March 2008, and Abu Yahya al-Libi, on 9 March 2008.

[37] The Consolidated List maintained by the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities (available at www.un.org/Docs/sc/committees/1267/consolist.shtml).

List, on whom effective implementation most depends, increasing the risk that listed names will not be spotted and that the measures may be applied to unintended targets. Most of the Team's contacts agree that the minimum information required for a basic check of the List is a full name, date (or at least year) of birth and, if possible, citizenship; for a check of money transfers, a name and an address are essential.

26. While it is understandable that no list of semi-clandestine Taliban and Al-Qaida associates is likely to be rich in detail, the Team questions the purpose of keeping entries on the List that have limited or no operational value. The Committee has always urged States to provide as much detail as possible when submitting a name for listing, and has called on them to use the cover sheet, which provides both a template for and guidance on what is required.[38] Although the Committee has set no minimum criteria for listing, it is unlikely that it would accept a new submission for the listing of an individual which lacked basic identifiers. However, the problem of existing listings remains, and while the Committee may not wish to remove from the List even the most incomplete entries on individuals while waiting for additional identifiers, the Team considers that such entries detract from the impact and credibility of the sanctions regime. Accordingly, it recommends that the Committee keep them under constant review and even consider placing them in a separate category within the List, until they contain identifiers sufficient to allow the sanctions to be applied effectively.

27. There has been much progress made in improving the information on the List in recent months, with contributions from 19 Member States leading to 44 proposed amendments in the six months since the Team last reported at the end of September 2007. During 2007, 324 changes were made to existing entries on the List, and 15 have been made so far in 2008. However, further effort is required. Until now, the Team has always proposed amendments to the List based on information that it has received from States. It now proposes that it also submit to the Committee, at set periods, information that it has obtained from its own research of publicly available official sources,[39] or with the help and agreement of United Nations agencies, such as UNAMA. In such cases, the Team would identify the source of each piece of new information when presenting it to the Committee for consideration.

28. The second most immediate objective concerning the List is to ensure that it is an accurate reflection of the threat and, as such, incorporates the names of recently identified Taliban and Al-Qaida associates worthy of listing. States remain reluctant to submit names (S/2007/677, para. 26) and, when they do so, it often takes some months for the Committee to decide whether or not to include them. To promote the List as a dynamic and responsive tool, the Team has suggested providing the Committee at regular intervals with a report on individuals and entities associated with the Taliban and Al-Qaida that have been especially active in the period concerned (S/2007/677, para. 27). The Committee is considering this proposal.

[38] The cover sheet appears as annex I to Security Council resolution 1735 (2006) and is available from the Committee's website (www.un.org/sc/committees/1267/pdf/coversheet.pdf).

[39] See, for example, www.ustreas.gov/offices/enforcement/ofac/programs/terror/terror.pdf and http://ec.europa.eu/external_relations/cfsp/sanctions/list/consol-list.htm.

## B. Photographs

29. One suggestion that the Team has heard often is to add photographs to the entries for individuals on the List. Besides security bodies, this request has come in particular from officials, such as those working at border posts, and from private sector representatives, such as those working at banks, who have to decide quickly whether the person in front of them is indeed the person on the List when some, but not all, identifiers coincide. The value of a photograph depends on many factors, including the date that it was taken and the quality of its reproduction; it can also mislead as well as help, especially considering that many listed individuals may take measures to alter or conceal their identity.[40] Nonetheless, the Team agrees that, where a useful photograph does exist, it should be available to those checking the List.

30. The Committee may find it hard to authenticate and include photographs on the List itself and, since the List is often distributed by Member States in hard copy, the quality of the photographs could quickly deteriorate when printed or photocopied. However, 76 of the publicly available INTERPOL-United Nations Security Council special notices[41] for listed individuals contain photographs[42] and the Committee could invite States to submit them for those that do not. This could be done directly to the International Criminal Police Organization (INTERPOL) through the relevant national central bureau, or through the Team. The Team recommends that the Committee also establish a hyperlink between each entry on the List and the corresponding special notice (regardless of whether or not the notice contains a photograph), or at least mention on the List that a special notice exists for that entry. States which distribute the List in printed form to border points could then attach copies of the relevant special notices, including high-quality photographs when available.

## C. Dead people on the List and the annual review of listings

31. The continued listing of individuals reported to be dead has led to questions about the relevance and purpose of the List. As at the end of March 2008, 12 individuals were identified on the List as dead or reportedly dead, and although the Committee has looked into this matter at length and in April 2006 issued a note verbale to Member States explaining how such names could be removed from the List, the Team believes that more could be done. In particular, it recommends that the Committee amend paragraph 6 (i) of its guidelines[43] so that the names of individuals identified as dead are automatically reviewed each year, along with any listings selected by the Committee from the pool of entries that have not been updated in four years or more, unless a Committee member specifically requests that the name of a reportedly dead person be removed from consideration. As with any other name under review, these listings would be examined without any presumption

[40] For example, Fazul Abdullah Mohammed (QI.M.33.01) is reported to have undergone plastic surgery.

[41] See www.interpol.int/Public/NoticesUN/Default.asp.

[42] The photographs of another five listed individuals are available only on the restricted versions of the special notices.

[43] www.un.org/Docs/sc/committees/1267/1267_guidelines.pdf.

as to the result, and the listings would be renewed automatically unless the Committee decided to remove them.

32. A review of these names under paragraph 6 (i) of its guidelines would provide the Committee with an opportunity to contact the designating State(s) and, as appropriate, the State(s) of residence or nationality, to obtain information that could help resolve these cases. In addition to the 12 individuals on the List recorded as dead, the Team is aware of 7 others who have been reported as dead by their State of residence or citizenship either to the Committee, the Team or INTERPOL, and a further 13 whose deaths have been reported in open sources but not yet notified officially to the Committee or to the Team. The Committee may wish to consider these cases as well.

33. To increase the likelihood that more information will emerge, the Team recommends that the Committee invite all States to provide information on names selected for review under paragraph 6 (i), not just the designating State(s) and the State(s) of residence or citizenship, as at present. The Committee could notify States of its review through a press release or on its website.[44] It also recommends that the Committee amend paragraph 6 (i) so that relevant States are provided access to all material designated by the submitting State(s) as publicly releasable or releasable to other States upon request, whether as part of the statement of case or of the cover sheet.

## D. Distribution of the List

34. Another vital determinant of the effective and timely application of the sanctions is the way in which States distribute updates to the List. If distribution lags behind the public announcement on the Committee's website, there is a real risk that targeted individuals or entities will have a chance to move their assets or themselves to safety. At present, the United Nations Secretariat circulates updates to the List by e-mail to over 480 addresses. These include the permanent missions of Member States in New York, officials in capital cities, international bodies, and regional organizations which deal with terrorism issues. While some Member States allow officials and private sector bodies to act on these e-mails or to incorporate changes directly from the Committee's website into their watch lists, others wait to receive in the capital a hard-copy notification from the mission in New York before distributing it, often also in hard copy.

35. Clearly, all States will distribute the List and implement the sanctions measures in whichever way they see fit, but the Team recommends that the Committee do what it can to encourage States to allow the implementation of updates based on an e-mail, a soft-copy notice or postings on its website. As some States do not have the infrastructure or the legal basis to be able to accept electronic notifications of listings, the Team recommends that, where this is the case, the Committee investigate the possibility of circulating the List through the local United Nations office to ensure that notifications of listings are not unduly delayed. The Team also recommends that the Committee invite States which do accept electronic updates, or otherwise find them useful, to provide all relevant e-mail addresses to the Secretariat, directly or through the Team, and to keep them up to date.

[44] See also the Team's recommendations in this regard contained in its seventh report (S/2007/677, para. 45).

### E. Other suggested improvements

36. A frequent suggestion has been to improve the presentation of the List, and it is easy to understand why. The List would be easier to use if each category under an entry (name, date of birth, nationality and so forth) occupied its own line. The poor appearance of the List contrasts with the considerable improvement that the Committee has made to its website, and the Team suggests that the Committee commission it to offer a new format for its approval.

37. The different ways in which names are read in different cultures can cause confusion with the List. The Committee has agreed that the Team should examine this issue with the aim of developing a standard naming formula that will ensure that the names of listed individuals are read correctly.

38. Recent improvements to the List include a new introductory page and guidance on searches,[45] and the removal of de-listed names to elsewhere on the Committee website. The Team recommends that the Committee encourage Member States to advise their officials and relevant private sector entities of the assistance offered by its website across a range of issues related to implementation.

## IV. Implementation of the sanctions

### A. The sanctions regime under challenge

39. The sanctions are at a legal crossroads, with much attention focused on two challenges now on appeal before the Court of Justice of the European Communities.[46] A lower court denied claims raised against the sanctions.[47] However, in a January 2008 advisory opinion, an Advocate General for the higher court, Miguel Poiares Maduro, rejected the lower court's conclusion that it lacked competence to review actions that implemented Security Council resolutions issued under Chapter VII of the Charter of the United Nations against the European Union's due process and human rights standards. He went on to find that the European regulation implementing the sanctions, EC 881/2002, infringed those standards, in particular the right to be heard, the right to effective judicial review by an independent tribunal and the right to property.[48]

---

[45] Available at www.un.org/sc/committees/1267/consolist.shtml and www.un.org/sc/committees/1267/pdf/sguidance.pdf, respectively.

[46] Case C-415/05 (appeal from judgement of 21 September 2005 in Case T-306/01) brought by Ali Ahmed Yusaf (previously listed as QI.Y.47.01) and Barakaat International Foundation (QE.B.39.01); Case C-402/05 (appeal from judgement of 21 September 2005 in Case T-315/01) brought by Yasin Abdullah Ezzedine Qadi (QI.Q.22.01).

[47] Case T-306/01 Yusuf and Al Barakaat International Foundation v. Council and Commission, judgement of 21 September 2005; Case T-315/01, Kadi v. Council and Commission, judgement of 21 September 2005. Judgements available at curia.europa.eu/en/content/juris/index.htm. For more detail on these rulings, see the Team's fourth report (S/2006/154, annex, paras. 4-7) and fifth report (S/2006/750, annex III, para. 4).

[48] Opinion of Advocate General Poiares Maduro of 16 January 2008, Kadi v. Council and Commission, Case C-402/05, paras. 40, 47-55. On 23 January 2008, he issued a nearly identical advisory opinion in the companion appeal of Al Barakaat International Foundation v. Council and Commission, Case C-415/05.

40. If this position is adopted by the European Court of Justice, there is a real possibility that the regulation used by the 27 member States of the European Union to implement the sanctions will be held invalid. Although the immediate impact of such a judgement would affect only the implementation of sanctions against the applicants, it seems likely that it would trigger similar challenges that could quickly erode enforcement.[49] Moreover, it is unclear what options would exist for a long-term fix. Advocate General Maduro suggested that it would be difficult for individual European Union member States to replace the Community's regulation with domestic legislation, since any such measures likewise would be subject to the same European due process standards.[50] Furthermore, it is easy to imagine that the precedent of a decision that invalidated the sanctions, especially one affecting so many States, might lead to similar problems in other States outside the European Union.

41. The Committee has made a series of incremental improvements to its procedures which have addressed many of the concerns expressed about the fairness of the sanctions but one major issue remains: the suggestion that listing decisions by the Committee be subject to review by an independent panel. It is difficult to imagine that the Security Council could accept any review panel that appeared to erode its absolute authority to take action on matters affecting international peace and security, as enshrined in the Charter. This argues against any panel having more than an advisory role, and against publication of its opinions, to avoid undercutting Council decisions. It would argue too for the Council retaining authority to select or approve the membership of a review body. Finally, solutions also would have to be found to the many evidentiary problems associated with a review panel. Although the panel might be allowed access to the confidential statements of case presented to justify listings, Committee members also draw on intelligence and law-enforcement information available to them nationally or through other sources, including information obtained through bilateral exchanges, which could not easily be made available to reviewers.

## B. Public statements of the case

42. A related criticism of the sanctions regime has been that listed parties do not know why they have been placed under sanctions and have no opportunity to challenge the evidence against them. The Committee does not act as a court of law; its measures are intended to prevent action rather than to punish it. The Security Council and the Committee have, however, made many changes to their procedures over the years which improve transparency and recognize basic standards of fairness that might apply were their decisions judicial. These include allowing individuals and entities under sanction to know the reasons for their listing.

43. The Security Council has called upon States to provide a statement of case when submitting the name of an individual or entity for inclusion on the List, with

[49] Indeed, as discussed in annex I to the present report, two other appeals raising similar claims are currently on hold in the European Court of Justice pending the resolution of the appeals by Qadi and Barakaat International Foundation (Cases C-402/05 and C-415/05). A number of other cases raising such claims are already before the European Court of First Instance.

[50] Opinion of 16 January 2008, Case C-402/05, at para. 30.

increasingly detailed requirements for what this should contain.[51] The Council has also called upon States to notify listed persons of their listing and its consequences and has requested submitting States to identify which parts of the statement of case, if any, might be publicly released to such persons as part of this notice.[52]

44. However, listed persons will see this statement of case only if the notifying State delivers it to them and, in any case, there is no provision for distribution of these statements to the broader public. To improve understanding of the sanctions, both for listed persons and for the public at large, the Team recommends that publicly releasable statements of case, where they exist, be made available on the Committee's website, whether through a hyperlink from the relevant List entry or otherwise. The Committee could include with this public statement any other information about the basis for listing provided by the submitting State(s) and identified as publicly releasable on the cover sheet, as well as any releasable supporting documentation provided. The Team further recommends that the Security Council explicitly request that Member States submitting names for listing provide a statement of case that may be released to the public.

45. Finally, in cases where the submitting States have not provided a publicly releasable statement of case, the Team believes that the Committee, as the party ultimately responsible for the quality of listings, should compile one itself. Many listed persons are the subject of publicly available indictments or judgements detailing their association with Al-Qaida or the Taliban which could be used; some members of the Committee also create and publish their own statements of case when they implement the sanctions domestically.[53] The Team could help by seeking out further information from Member States and other official sources. The Committee could also urge Member States to contribute additional information to the public statements on the website, just as it encourages them to provide further information for entries on the List. These steps would accord with the practice of the five other Security Council sanctions committees, which already publish on their websites some statement of reasons for the inclusion of the individuals and entities on their lists.[54]

## C. Handling requests for information from Member States

46. States seeking further information on listings have complained to the Team that they often receive no answer to their requests. The practice of the Committee has been to forward these to the designating State or States for a response, leaving

---

[51] Resolution 1526 (2004), para. 17; resolution 1617 (2005), para. 4; and resolution 1735 (2006), para. 5.

[52] Resolution 1526 (2004), para. 18; resolution 1617 (2005), para. 5; and resolution 1735 (2006), para. 6.

[53] For example, press releases published by the United States Office for Foreign Assets Control explain the reasons for designations, such as in the case of Mukhlis Yunos (QI.Y.126.03). See www.treas.gov/press/releases/js700.htm.

[54] The committees established pursuant to resolution 1518 (2003) (see www.un.org/sc/committees/1518/index.shtml); resolution 1521 (2003) concerning Liberia (see www.un.org/sc/committees/1521/index.shtml); resolution 1533 (2004) concerning the Democratic Republic of the Congo (see www.un.org/sc/committees/1533/index.shtml); resolution 1572 (2004) concerning Côte d'Ivoire (see www.un.org/sc/committees/1572/index.shtml); and resolution 1591 (2005), concerning the Sudan (see www.un.org/sc/committees/1591/index.shtml).

the requesting State to wonder if and when one will come. The Team recommends that the Committee follow up these requests after a fixed interval, depending on the urgency of the matter, to learn whether a designating State has responded, or intends to do so. This would allow the Committee to keep the requesting State informed, to ensure that the request is dealt with and to learn the results of any exchange. To complement such bilateral exchanges, the Committee, as the body ultimately in charge of designations, could also draft a reply to the requesting State on the basis of the information available and invite comments from the designating and other relevant State or States within a defined period.

# V. Assets freeze

## A. Update on frozen assets

47. At the end of September 2007, the Team noted that, under the sanctions regime, approximately $85 million had been frozen by 36 Member States (S/2007/677, para. 57). No Member State has reported changes to the amounts frozen, either for names already on the Consolidated List or as regards the six names added to the List or other modifications made since that time. Since September, the Committee has removed from the List Ahmed Idris Nasreddin (QI.N.66.02), and the 12 entities associated with him,[55] but there is no precise information on the amount of assets unfrozen as a result, though the Team knows of two States which had frozen assets related to these listings.

## B. Non-binding, non-exhaustive list of targeted assets

48. To be effective, it is essential that all targeted assets of a listed individual or entity be frozen as soon as a listing is made. In order for the private sector to act swiftly, the Committee and authorities in Member States may wish to identify the range of assets that are subject to the assets freeze beyond the general guidance provided by the Security Council in paragraphs 1 (a), 2, 3 and 20 of its resolution 1735 (2006) and in earlier relevant resolutions. The Team has noted that some States are unclear as to what physical property and other non-monetary assets should be covered, beyond bank accounts. The Team has previously recommended that the Committee include on its website a non-exhaustive and non-binding list of assets that the private sector may, prima facie, assume to be covered by the assets freeze (S/2006/677, paras. 82-85). This would help to promote a consistent approach across jurisdictions and to make the assets freeze more effective. The Team has separately prepared a draft list for consideration by the Committee.

49. Member States and the private sector may also find it useful to have guidance on how to freeze different kinds of assets, and on dealing with property in which the listed party has only an interest or part ownership. As Member States build their experience in this area and find ways to freeze these assets without unduly affecting the interests of unlisted parties, the Team proposes that, with the approval of the Committee, it draw together current practices and develop draft guidelines that could be posted on the Committee's website.

[55] Removed from the List on 14 November 2007 (see Committee press release SC/9172).

## C. Risk of swapping interests in frozen funds for goods or services

50. Submissions made under paragraphs 1 (a) or 1 (b) of Security Council resolution 1452 (2002) that seek agreement to pay for the provision of goods or services to a listed person can carry the danger that the amounts stated are inflated through an undisclosed arrangement between the supplier and the listed party. If approved, such payments would release funds that could then be used for other purposes. The Committee may wish in its guidelines to encourage States to scrutinize transactions accordingly, and to provide information that would help the Committee to decide if the funds sought were appropriate.

51. Also, in some cases, suppliers may have provided goods or services to a listed party before the State has decided whether it is appropriate to release frozen assets to pay for them. To guard against this, the Council may wish to encourage States to require listed individuals to obtain prior approval before acquiring such goods or services related to an application under resolution 1452 (2002), and to offer appropriate guidance on its website.

## D. Treatment of incoming funds in favour of listed parties

52. Under paragraph 2 of Security Council resolution 1452 (2002), States may allow frozen accounts to be credited with interest or other earnings or payments due under contracts, agreements or obligations that arose prior to the date on which the accounts became subject to the assets freeze measure. However, there are other circumstances in which payments may arise and it is possible that precluding attempts to make payments outside the two categories mentioned in the resolution would prevent payers from fulfilling legal obligations to the listed person or third parties, causing them to incur liability.

53. Banks have told the Team that they are unsure of what to do if funds remitted to accounts frozen under the sanctions regime do not fall clearly under one of the two categories provided for in resolution 1452 (2002). In addition, it is not clear to them how — or if — they should make the determination that the funds sent to frozen accounts relate to contracts entered into prior to the listing. If they pass the decision back to the State to make, they must be able to hold the assets in a suspense account pending a reply. Given the administrative and legal difficulties involved, it is perhaps not surprising that banks have often returned such payments to the sender. Clearly there is a risk in these circumstances that the sender will alert the listed party, who may then make arrangements to receive the funds in a way that avoids the sanctions. The Team recommends that the Security Council consider widening the scope of paragraphs 2 (a) and 2 (b) of its resolution 1452 (2002) to allow all incoming payments in favour of listed parties to be credited to their frozen accounts.[56]

## E. Scope of the assets freeze

54. Some States appear not to apply the sanctions to assets that a listed party may control, though not hold directly. The current provisions under the assets freeze

[56] At least one Member State has adopted such an approach in regard to another sanctions regime.

measure call on States to freeze the assets and economic resources "of" a listed party but give only limited guidance on what this means. The resolutions specify that assets include funds "derived from" property that is controlled "directly or indirectly" by listed persons, but are less clear about the property itself. They also leave open what States should do about companies and other entities that are not themselves listed but are controlled by listed persons, either directly or through proxies. Some States apply the assets freeze measure in such circumstances, others do not.

55. The counter-terrorism sanctions imposed by the Security Council in resolution 1373 (2001) address this issue; its assets freeze measure applies to the assets and economic resources not only of terrorist actors[57] but also of "entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities". The Team recommends that the Security Council consider similar provisions for the Al-Qaida/Taliban sanctions regime, or provide explicit guidance to States on this point, so as to promote a uniform approach and appropriate implementation.[58]

## F. General indicators of terrorist financing

56. Banks and other financial institutions continue to ask their authorities what they should look for in order to spot possible terrorist-financing transactions by their customers. Banks must spend time and resources preparing and submitting suspicious activity reports and want to be sure that these are as useful as possible. Equally, official bodies, such as financial intelligence units, will not wish to be overwhelmed with reports that have no value. Some authorities have provided the private sector with general guidance, and others keep in close contact with banks to discuss current trends and experiences.

57. The fact remains, though, that terrorist financing follows no clear pattern, particularly for local cells which are raising money to support their own activities. Such cells are as likely to use their own money, legally acquired, as they are to make fraudulent transactions. Even among these, it is hard to spot a terrorist intent rather than a mere desire to make money. If banks are too proscriptive in deciding what to examine as a possible case of terrorist financing, they are just as likely to miss the use of new methods as they are to discover the use of old ones. Terrorists and their financiers will employ whatever method seems the easiest and most secure to raise, move and store their money, according to their circumstances.

58. However, the Team understands the desire for guidance and has consulted a range of Member States on this issue. To date, the information received tends to confirm its view that providing examples of terrorist financing may have more disadvantages than allowing experienced bankers to rely on their knowledge and their instinct for what appears odd. The closer that banks work with their financial

[57] That is, "persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts".

[58] In this regard, the Security Council, in resolution 1617 (2005), emphasizes "the obligation placed on Member States to implement in full resolution 1373 (2001) against the Taliban or Al-Qaida, and any individuals, groups, undertakings or entities associated with Al-Qaida, Usama bin Laden or the Taliban, who have participated in financing, planning, facilitating, recruiting for, preparing, perpetrating, or otherwise supporting terrorist activities or acts".

intelligence units, police and other counter-terrorist officials, the more all sectors will benefit.

## G. Use of fraudulent identities to finance terrorism

59. One common fraud, also used by terrorists, is to obtain credit under a false identity. This is hard to detect and deal with but, in addition to national records, INTERPOL maintains a database of 15 million stolen or lost travel documents from 125 countries.[59] While access to the database is limited at present to law-enforcement agencies, it is clearly of increasing value as more countries provide information. Even where banks are able to check documents presented by customers with their local police, the INTERPOL database may not always be consulted. If more police forces used the database, or if certain bank officials were allowed access, there could be a lower incidence of fraudulent activity of this kind, including by people on the List. INTERPOL has informed the Team that it is in contact with bankers with a view to improving cooperation, including in regard to the database of stolen or lost travel documents. The Team expresses the hope that INTERPOL member countries will support this initiative.[60] The Committee and the Council may also wish to encourage States to share with the private sector information on their national databases which relates to stolen, lost and counterfeit identity documents pertaining to their own jurisdictions and, if a listed party is found to be using a false identity, to provide the details to the Committee.

# VI. Travel ban

60. While it is hard to quantify the impact of the travel ban, it is an important part of the sanctions regime against Al-Qaida, the Taliban and their associates. Although the Internet and other means of communication allow Al-Qaida to assert and maintain a global presence, its leadership nonetheless appears under siege and remote, and the more the international community is able to restrict the movement of prominent Taliban and Al-Qaida leaders, the less they are able to exert their influence. The travel ban is even more effective as both a deterrent and a persuasive measure when applied to prominent financiers and other second-line supporters of Al-Qaida and the Taliban, who are unlikely to risk travelling illegally.

61. Member States are continually updating their border security, whether by enhancing procedures for checking travellers at points of entry, adopting more technically sophisticated travel documents, introducing better equipment to read passports or allowing access to central databases from border crossing posts. However, so far as the Al-Qaida and Taliban travel ban is concerned, these improvements are useful only when there is enough information available to the relevant officials to determine whether the person in front of them is on the Consolidated List.

62. Many of the 370 individuals currently on the List are unlikely to present themselves at an official border crossing post; they are either in detention, too well known to risk travelling legally or subject to an international arrest warrant.

[59] Source: www.interpol.int/Public/ICPO/FactSheets/GI04.pdf.

[60] See also the Team's fifth and seventh reports (S/2006/750, para. 89, and S/2007/677, para. 94).

However, there are others who are not wanted by any law-enforcement agency, who may not have ready access to false documents of sufficient quality to survive close scrutiny, and who may in any case calculate that the limited amount of personal detail recorded about them on the List makes it reasonably certain that they will be able to pass through border posts using their genuine documents without being noticed. As long as States impose no obligation on listed individuals to abide by the travel ban, they may see little risk in trying to avoid it.

63. Indeed, the Team knows of occasions when this has happened: for example, with a listed individual who was able to make several trips between Europe and Africa without being stopped (S/2007/132, box 6); no doubt there are many other violations of the travel ban. The example cited, where the List recorded a name that was not exactly the same as that written on the passport, also illustrates the importance of having as much detail as possible on the List. Even in this case, if the passport number had been recorded, it is far less likely that the individual would have been able to travel. It should not be difficult for States of nationality or residence to check what, if any, travel documents have been issued officially to listed parties and, if they are still valid, to report the details to the Committee for inclusion on the List. The Team suggests that the Committee urge States to do so.

64. As mentioned earlier in this report, there have been many updates to the List over the past year, and, to give them full effect, it is important that new versions of the List be circulated to border posts as soon as they are issued by the Committee. The Team has continued to conduct random checks at border points to assess the degree to which the Al-Qaida/Taliban List is included in national watch lists and has been generally encouraged to find that, more often than not, it is. However, some States require an administrative order or other legal process before they can enter updates to the List into their national watch lists, and this inevitably leads to a delay in implementation. The Team recommends that the Committee encourage Member States to ensure that their internal procedures allow the immediate incorporation of changes to the Consolidated List into their relevant national databases and watch lists and to notify border posts of such changes as soon as practicable.

## A. INTERPOL-United Nations Security Council special notices

65. One mechanism that can help disseminate information on the List quickly is the use of INTERPOL-United Nations Security Council special notices, which now exist for just over 300 of the 370 individuals on the Consolidated List. INTERPOL updates these notices on a regular basis, and they are particularly useful at border posts because they increasingly contain photographs.[61] They are accessible through the INTERPOL website and can be printed and distributed, along with other law-enforcement information, to border posts that do not have an Internet connection. As the Team has noted above, it proposes that States make an effort to supply INTERPOL with photographs of more of the listed individuals and to submit any other detail of value to a border crossing point for inclusion in the notices.

66. The increasing use of the INTERPOL-United Nations Security Council special notices by Member States is encouraging, but one major problem has become evident as their usage has increased: when a border post or a law-enforcement body

[61] See para. 30 above.

considers that they may have come across someone identical to the subject of a special notice, there is no easy way for them to confirm this. An enquiry to INTERPOL will help only when INTERPOL can provide additional information through its own channels. Otherwise, it will need to contact the State or States that have submitted the information on the List to find out if any more identifiers exist. To do so, it will have to contact the United Nations Secretariat or the Team, which in turn will have to contact the Chair of the Committee, who will then have to contact the relevant Member State or States, which will then have to answer the query. It is unlikely that the border post concerned will be able to delay a decision for the time it takes to complete this process.

67. Such an incident occurred in February 2008, when an INTERPOL member country requested further information from INTERPOL on whether an individual seeking to enter the country was the same person appearing on a special notice. The State also asked for guidance with regard to its obligations in case the person was the same individual. INTERPOL approached the Team, which forwarded the request to the Chair of the Committee, who took prompt action in notifying the State that had submitted the name for listing, asking it to contact the requesting State directly to save time. However, if any information did get back to the original enquirer, it was too late. The State, unable to delay any further than it had, allowed the individual to enter.

68. Not only do such cases cause extra work for border posts but ultimately they result in adverse consequences for individuals who are not listed, or failure to implement sanctions against those who are. Furthermore, States will be less inclined to use special notices if they learn that these problems exist; conversely, they will use them more if they consider that they are well supported by the issuers, in this case the Committee and INTERPOL. The latter has commented that the more information contained in the special notices, especially fingerprints, photographs and passport numbers on the restricted versions which are available only to law-enforcement agencies in its member countries, the more useful they will be and the less likely that incidents like that mentioned above will occur. INTERPOL has also offered to provide guidance to its members on the scope of the sanctions regime. In addition, it has suggested that there should be a permanent enquiry point at the United Nations to deal with questions and ensure that relevant additional information on listed individuals is provided in a timely manner when made available by Member States.

69. The Team agrees that this idea is worth examining further, and not just to help with requests related to the travel ban directed through INTERPOL. There is a wider need to ensure that requests from Member States for information about listed persons attract a response. Such an enquiry point would complement the national help desks that the Team has previously recommended that Member States establish (S/2007/132, paras. 61-64, and S/2007/677, para. 138). Further, the Team suggests that where these national help desks exist, States publicize their contact details so that domestic law-enforcement bodies, as well as authorities in other States, know where to turn with questions about implementation.

70. When States do refuse entry or transit to an individual on the basis of a listing, or when a listed individual changes location as a result of the permitted exceptions to the travel ban, such as return to the State of nationality or movement in support of

a judicial process,[62] it would be useful for the Committee to know, so that it may update the List and record any new information that comes to light. The Team recommends that the Committee urge States to notify it in such cases. In the case of confidential information that a State may be reluctant to see appear on the List, the restricted version of the INTERPOL special notice may be an appropriate place to note it.

### B. Other recommendations

71. The Team has made recommendations to the Committee concerning exemptions from the travel ban to ensure that States have clear procedures for approaching the Committee on behalf of listed individuals who may need to travel for humanitarian or other purposes. The Committee is considering these recommendations. It is also considering a recommendation that States should cancel any visa or residence permit for destinations to which an individual has travelled after being listed, and to return such individuals to the country in which they were at the time of listing, subject to appropriate exceptions at the determination of the Committee (S/2005/572, para. 122).

72. The Committee has agreed with other recommendations from the Team, such as: (a) that States adopt measures that ensure that a listed party cannot apply for a new travel document without giving details of the former one, and provide immediately the details of any new document issued to the Committee for entry on the List (S/2005/760, sect. V); (b) that States promote reporting by their citizens of the loss or theft of travel documents (S/2006/1047, para. 13); and (c) that States make a special effort to identify and submit for listing the names of people who provide stolen, fraudulent, falsified or counterfeit documents to listed individuals, on the basis that they thereby support and are associated with Al-Qaida, the Taliban or their associates (S/2008/16, para. 19). The Team now also recommends that the Council encourage Member States to ensure that stolen, lost, fraudulent, falsified or counterfeit travel documents are not only invalidated but removed from circulation when found and returned to the appropriate authorities of the State named as issuer.[63]

## VII. Arms embargo

### A. Implementation of the arms embargo

73. An important consequence of the arms embargo should be to force Al-Qaida, the Taliban and their associates to resort to the use of less efficient arms and related materiel with less sophisticated military skills. In most areas, controls put in place by Member States have forced Al-Qaida associates to improvise, and their lack of technical ability has led to failed plots or less damage than expected. It is only in

[62] In paragraph 1(b) of its resolution 1735 (2006), the Security Council stated that the travel ban should not apply where entry or transit was necessary for the fulfilment of a judicial process or the Committee established pursuant to resolution 1267 (1999) determined on a case-by-case basis only that entry or transit was justified.

[63] See also paragraph 3.42 of annex 9 to the Convention on International Civil Aviation (Chicago, 1944).

places such as Afghanistan, the Afghanistan-Pakistan border area, Iraq, small areas of the Philippines and Somalia that they have been able to sustain campaigns over a long period, supported by an active and ample logistical supply, military recruitment and training networks. The burden of implementation in these cases extends beyond the boundaries of the States concerned, including to States from which funds and arms originate and States whose nationals are involved in their supply.

## B. Scope of the arms embargo

74. Although States are increasingly aware of their obligations under the arms embargo, most continue to view this measure largely as a requirement to control their arms exports through licensing, and to supplement such measures with general domestic arms regulations without any need to tailor them to the Al-Qaida/Taliban arms embargo. States may consider that the range of overlapping arms-related obligations that they enter into by virtue of their membership of the United Nations and other organizations and by their acceptance of relevant treaties provides the legal basis for full implementation of the arms embargo. However, the Team recommends that the Security Council and the Committee encourage States to make sure that domestic controls cover listed parties, and that they have adequate legislation to control their nationals and registered ships and aircraft beyond their national territory, as required by the relevant resolutions concerning Al-Qaida and the Taliban. The Committee may also seek ways to ensure that other international efforts on arms control recognize the provisions of the Al-Qaida/Taliban arms embargo.

## C. Related materials

75. The Team has continued to gather the views of Member States on how the embargo could best be developed to have the most impact on the ability of Al-Qaida, the Taliban and their associates to carry out attacks. Aside from areas in which they lack the capacity to enforce the embargo, States are most concerned about dual-use materials, in particular ammonium nitrate.[64] The Team recommends that the Council clarify that "related material" under the arms embargo covers specified dual-use materials. This need not require a total ban on such materials, but States could be urged to prevent listed persons and entities from obtaining, handling, storing, using or seeking access to them. The Council could also encourage States to increase vigilance in the regulation, production, sale, supply, purchase, transfer and storage of such materials.[65]

---

[64] The factor setting ammonium nitrate apart from other improvised explosives is its generally unrestricted availability in the large quantities necessary to manufacture a major explosive device.

[65] Several Member States in Europe and South-East Asia have already adopted such measures without relation to the arms embargo (S/2005/83, annex, para. 115, and information provided to the Team).

## D. Illicit trafficking of arms by air

76. The prevention of the supply of arms and materiel by air to Al-Qaida, the Taliban and their associates is related to several other activities currently under discussion at the United Nations and in other international and regional organizations.[66] The Team considers that, in view of the challenges faced by individual States in dealing with this issue, it would be useful to engage such international organizations as the International Civil Aviation Organization (ICAO) and the International Air Transport Association (IATA), which deal with both official authorities and airline operators, and the World Customs Organization (WCO), which is the only intergovernmental organization working on the development of global customs standards.[67] Although the Team has already contacted these organizations at the working level, it considers that further progress may require a high-level agreement between them and the Committee, similar to the arrangement with INTERPOL (S/2007/677, para. 114).

## E. Acquisition of arms by intermediaries and third parties

77. Most States utilize a licensing approach to implement the Al-Qaida/Taliban arms embargo, meaning that they simply ban all related exports unless specifically authorized by the relevant authority. In most cases, the relevant authority checks all importers against the Consolidated List and some States have adopted additional measures to ensure also that they are not associated with any listed individual or entity. Further, some States require that applicants agree not to transfer arms to any third party without an additional licence, which should guard against diversion to anyone on the List. Many other States have similar measures in regard to activities within their own territories; however, globally there is no consistent application or enforcement of the licensing approach. The Team has submitted a paper to the Committee on this issue.

## F. Military training and recruitment as part of the arms embargo

78. Arms and military skills would be of no use to Al-Qaida, the Taliban and their associates if they did not have the personnel willing to use them. Indeed, in terms of fundamental military capabilities, the availability of human resources, including in particular trained veterans, may be a key determinant of success. The arms embargo does not explicitly cover this critical element and the Team recommends that the Security Council prohibit the provision of manpower to listed entities. Specifically, the arms embargo could require Member States to prevent persons on their territories, and their nationals outside their territories, from participating in the military or paramilitary activities of listed entities, including by receipt of arms, related materiel, military technical advice, assistance or training from them, or providing others to participate in such activities or facilitating their participation.

---

[66] Including the special meeting on combating the illicit trafficking of small arms and light weapons by air, held by the Organization for Security and Cooperation in Europe in Vienna in March 2007.

[67] While there are several regional organizations which deal with customs standards, the World Customs Organization is, to the best of the Team's knowledge, the only international intergovernmental organization working on developing global customs standards.

79. The Council could also explicitly require Member States to prevent listed individuals and entities from having access to, establishing or maintaining military or terrorist training facilities inside their borders. This would reinforce their existing obligations under paragraph 2 of Security Council resolution 1373 (2001),[68] and develop the scope of the arms embargo to cover military and paramilitary training and recruitment comprehensively.

## G. The Internet and the arms embargo

80. Al-Qaida, the Taliban and their associates use the Internet, among other things, to obtain technical advice, assistance and training related to military activity. Even though the instructions they can obtain online may not be sufficient for maximum effect to be achieved from their operations, which requires practical training and field exercises, by providing relevant material to skilled operatives in electronic format they can facilitate training that violates the arms embargo. While the Al-Qaida/Taliban sanctions regime already provides Member States with a basis to act against those who violate the arms embargo, including via the Internet, the Team recommends that the Council clarify that the arms embargo should be enforced also in the virtual world, meaning the prohibition of activities over the Internet that include the sale, supply or transfer of technical advice, assistance or training related to military activities for the benefit of those on the List, military or paramilitary recruitment and the provision of manpower to listed entities.

## H. Military command and control networks and the arms embargo

81. The ability of commanders to exercise control, maintain situational awareness, and plan and coordinate their actions vertically and horizontally through the command structure is central to any military or paramilitary operation. Since Al-Qaida, the Taliban and their associates are engaged in such activity, they too must possess the necessary means to do so, including communications equipment. However, the sanctions regime does not explicitly target this crucial aspect of military capability, even though it is widely covered by the existing arms export and control regulations adopted by Member States and multilateral institutions.

82. While Al-Qaida, the Taliban and their associates may not maintain sophisticated structures and systems that provide operational control of their followers, they have nonetheless a functioning military capability, as indicated, for example, by the insurgency in Afghanistan. At the tactical and operational levels, Al-Qaida, the Taliban and their associates have used both military and civilian equipment, such as short-range radios and mobile and satellite telephones. Considering the limited means of effective communication available to Al-Qaida and its associates across their various areas of operation, the Internet and satellite telephones play a particularly important role.

[68] Many Member States have also relevant legal commitments by virtue of their participation in universal legal instruments against terrorism, such as the International Convention for the Suppression of Terrorist Bombings adopted by the General Assembly in resolution 52/164 of 15 December 1997.

83. The Team recognizes that Al-Qaida is likely to use less direct and more secure methods of communication, including couriers, for priority communications and for top-level leaders who cannot risk compromising their location. Nevertheless, it recommends that the Council consider the communications used by Al-Qaida and the Taliban emphasizing the need for Member States to prevent their nationals from engaging in the supply, sale, transfer or other provision of military command and control capabilities to Al-Qaida, the Taliban and their listed associates, whether through the Internet or by other means.

### I. Other recommendations

84. The Committee has previously agreed with other recommendations from the Team such as: (a) that States oblige listed parties to abide by the sanctions (S/2007/677, para. 111); and (b) that their obligations regarding technical advice, assistance or training cover not only those who conduct, direct or provide technical advice, assistance or training for listed parties but also those who receive it from listed individuals or groups (S/2007/229, para. 18).

## VIII. Activities of the Monitoring Team

### A. Visits

85. The Team visited 13 Member States between October 2007 and March 2008. Six of these were follow-up visits and five were to States not previously visited. Two were made jointly with the Counter-Terrorism Committee Executive Directorate. A member of the Team also accompanied the Chairman of the Committee on his visit to three States in Central Asia in October and November 2007.

86. The Team's follow-up visits, especially those made to close partners in the Arab world, confirm that Al-Qaida and its associates continue to present real challenges. For example, the difficulty of policing borders in the Sahel-Sahara region has allowed AQIM* and its associates to move freely, to raise money from smuggling, to acquire arms and explosives and to train new recruits in relative safety. The visits have resulted in the submission of additional information on listed names and have confirmed the desire of Member States to benefit from a more interactive relationship with the Committee, including by receiving more information on the basis for listing, and to enhance the technical and legal knowledge of officials as to the meaning and scope of the sanctions measures.

87. The Team's first visits to five States allowed it to identify issues concerning implementation and to explain the sanctions regime in detail, as well as to collect more information about the threat. In two countries, the Team was able to hold a sanctions workshop for officials concerned with implementation. An issue that often arises during such discussions is how to ensure the circulation of the Consolidated List to all appropriate officials and the private sector; another is the legal basis necessary to implement the sanctions regime.

## B. Talks and meetings

88. The Team's participation in subregional, regional and international meetings allows it to explain the work of the Committee and recent developments in the sanctions regime. Where necessary, the Team can also explain the distinctions between the Committee and the Counter-Terrorism Committee. The Team has attended specialist meetings on sanctions implementation, on countering the financing of terrorism and on the legal challenges facing States as a result of actions taken against listed parties. All such meetings provide the Team an opportunity to explain the obligations placed on States by the relevant resolutions and to relay their concerns back to the Committee.

89. Among other conferences and meetings, the Team took part in the workshop on combating incitement to terrorism on the Internet, convened in November 2007 by the Action against Terrorism Unit of the Organization for Security and Cooperation in Europe (OSCE), and in the information technology and national security conference held in Saudi Arabia in December 2007. Both meetings confirmed the widespread concern at the use of the Internet for terrorist purposes, in particular in regard to propaganda, recruitment and training. Participants discussed the actions taken at the national and regional levels to improve their understanding of the phenomenon and exchanged views on how to counter it. All agreed on the need for more effective action and international cooperation, but also acknowledged the legal, technical, social and political complexity of the issues involved. These meetings allowed the Team to update two papers it had earlier prepared for the Committee on the use of the Internet by Al-Qaida and its associates.

## C. Regional meetings with intelligence and security services

90. The Team has held three meetings for intelligence and security service chiefs since presenting its previous report at the end of September 2007: one at the United Nations Office at Vienna to discuss core issues to do with Al-Qaida-related terrorism across the Middle East, North Africa and South Asia; one in the Sudan to discuss Al-Qaida-related activities in Somalia; and one in the Philippines to discuss Al-Qaida associates in South-East Asia.

91. The meeting held in Vienna was the sixth that the Team has convened for the heads and deputy heads of intelligence and security services from selected countries in the Middle East, North Africa and Pakistan. Seven States attended: Algeria, Libyan Arab Jamahiriya, Morocco, Pakistan, Saudi Arabia, United Arab Emirates and Yemen. Egypt and Jordan were invited but could not attend. The participants agreed on the resilience of the threat from Al-Qaida, which they saw developing local and regional groups and targeting ever younger people (i.e., 14-17 years old) for recruitment. They expressed concern at the extensive use of the Internet by Al-Qaida and its associates, at the irresponsibility of some media outlets in their coverage of sensitive issues and at terrorist use of satellite telephones. While stressing the key importance of regional and bilateral operational cooperation, they also emphasized the need to combat Al-Qaida-related terrorism within the framework of the United Nations, and reiterated their support for the Committee and the Team. They called for more decisive action by the United Nations generally on factors conducive to terrorism, such as Islamophobia. They also stressed the need to avoid exclusively repressive policies, develop programmes for rehabilitation and to

counter radicalization, promote the fair political solution of conflicts that are of particular importance to Arab and Muslim public opinion, and support economic development.

92. The meeting held in the Sudan brought together the intelligence and security services of Djibouti, Ethiopia, Kenya, Saudi Arabia, the Sudan, the United Republic of Tanzania, the United Arab Emirates and Yemen. It noted that the Al-Qaida leadership had spoken publicly of Somalia as an area in which its supporters should intensify their efforts, and identified several individuals and entities that might merit submission to the Committee for listing, including Al-Shabab, which has claimed responsibility for more than 20 attacks since September 2007. All participants agreed that the United Nations in general, and the Committee in particular, had an important role to play in providing an overall framework for action. They also agreed that the meeting had allowed them to exchange views and information in an atmosphere of collaboration and common purpose.

93. At the meeting concerning South-East Asia, which was held in Manila and attended by Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore, Thailand and Viet Nam, participants agreed that much progress had been made in the region, in large part because of the effective de-radicalization and rehabilitation programmes initiated by several Governments. Nonetheless, the meeting agreed that there was no room for complacency and that operational work at both the national and regional level remained an essential way to keep the Al-Qaida-related threat in check. There were several suggestions concerning improvements to the Consolidated List, and the participants agreed that the Committee played an important role in the overall effort to curb the growth of Al-Qaida-related terrorism in South-East Asia.

## D. International and regional organizations

94. In 2006, the Committee agreed on a strategy for cooperation with key international, regional and subregional organizations, which was updated in April 2007. In pursuit of the strategy, the Team has established cooperation with several organizations, such as OSCE, in particular its Action against Terrorism Unit, WCO, ICAO, IATA and INTERPOL. Contact with these and other organizations, such as the International Maritime Organization and the African Centre for the Study and Research on Terrorism of the African Union, has highlighted the need for the Team, the Counter-Terrorism Committee Executive Directorate and the experts supporting the Security Council Committee established pursuant to resolution 1540 (2004) to develop a common strategy.

95. The Team recommends that this common strategy cover such areas as the dissemination of information on the work and mandate of the three committees and their expert groups and the adoption of a common approach to relevant international and regional organizations so as to get a better idea of regional and subregional problems in implementing Security Council resolutions dealing with terrorism. This is an area in which coordination with the Counter-Terrorism Committee and the Counter-Terrorism Committee Executive Directorate is of particular relevance because of the importance of addressing the assistance needs of States.

## E. Cooperation between the Security Council and INTERPOL

96. As stated above, States are increasingly aware and supportive of the INTERPOL-United Nations Security Council special notices. In addition to law-enforcement agencies, which have access to a fuller, restricted version of the notices through the INTERPOL secure global communications system (I-24/7), banks and other financial institutions have used them to help check their customers against listed names and avoid false positive identifications. By the end of March 2008, the number of special notices issued for listed individuals stood at just over 300.[69]

97. For about 140 of these individuals, INTERPOL databases have contributed additional identifying information such as aliases, other dates or places of birth, and photographs or fingerprints. Over 80 photographs have now been added to the notices, and nearly 40 sets of fingerprints are available in the restricted law-enforcement sections. More than 10 per cent of individuals on special notice are also the subject of INTERPOL red notices, and over 5 per cent have been the subject of INTERPOL diffusions.[70] Four of the red notices were issued by Member States following the publication of special notices on the basis of membership of an unauthorized organization. These actions suggest that there is increasing use of the special notices by Member States as a tool for linking national operations with the global framework of the Al-Qaida and Taliban sanctions regime. During the period under review, the cooperation between the Committee and INTERPOL reached another milestone with the decision to issue special notices for entities. INTERPOL will begin to publish them in the near future.

## F. Cooperation with other Security Council committees

98. As stated in its previous reports, the Team and the expert groups that support the Counter-Terrorism Committee and the Security Council Committee established pursuant to resolution 1540 (2004) submitted to their respective committees in September 2006 a common strategy paper designed to assist States that were behind in reporting to the Council. The strategy focused on a subregional and regional outreach approach and, in February and March 2007, the three committees agreed to start work on this basis, beginning with the African region.

99. Under the common strategy, the three expert groups, working together with the United Nations Office on Drugs and Crime, specifically its Terrorism Prevention Branch as facilitator, agreed to organize a series of workshops in Africa for officials who are involved in the implementation of the relevant Security Council resolutions or responsible for preparing reports to the three committees. Such workshops allow the expert groups to explain the reporting requirements imposed by the relevant Security Council resolutions and to address the specific concerns of the participants in order to help them prepare their responses to the three committees.

---

[69] From April to December 2007, there were approximately 1,500 hits per month on the public version of the special notices web page.

[70] INTERPOL red notice: a request from a national central bureau to the INTERPOL General Secretariat to circulate information to all its member countries to seek the arrest or provisional arrest of an individual with a view towards extradition based on a national arrest warrant. INTERPOL diffusion: a message (without photographs or fingerprints) transmitted from one country to another or others to seek the arrest or provisional arrest of an individual with a view towards extradition based on a national arrest warrant.

100. The first workshop was held in Senegal in September 2007 for 23 West and Central African States. The second workshop was held in Botswana in November 2007 for the 14 member States of the Southern African Development Community, as well as Seychelles and the Comoros. Since all States participated at an appropriate level, the workshops allowed for serious dialogue on the challenges faced in the implementation of the Al-Qaida and Taliban sanctions measures. A third workshop is planned for the remaining 14 North and East African States in the second half of 2008. In this manner, all African States will be covered under the common strategy.

101. The Team's assessment from the workshops so far is that effective implementation in many States has been hindered by the fact that officials on the ground who have to implement the measures lack a clear understanding of the scope of national obligations under the sanctions regime. The Team expresses its hope that the papers which provide an explanation of terms for all three sanctions measures, currently available on the Committee website or under preparation, will help to resolve this matter.

102. Some States have also expressed concern that they might be judged as non-compliant with the measures because they lack the capacity to implement them fully; others highlighted competing claims on their limited resources, and there was a general feeling that such issues were not sufficiently addressed by the Security Council. The Team has no mandate to deal with the provision of technical assistance, but reassured all participants that it would continue to collect information submitted by States on their assistance needs in relation to the Al-Qaida and Taliban sanctions regime and to forward it to the Counter-Terrorism Committee Executive Directorate for action.

103. The three expert groups have continued to cooperate and coordinate action following the two workshops. With the assistance of the United Nations Office on Drugs and Crime liaison office in New York, they provided a post-workshop briefing to the 23 West and Central African States on return from Senegal, and to all United Nations permanent missions of the members of the African Union following the second workshop.

104. At the same time, the three expert groups continue to coordinate their approach to States that need assistance with their reporting obligations in Asia and the Pacific, and Latin America and the Caribbean. The common strategy proposals for these States include working with the United Nations Office on Drugs and Crime and with other Member States through a consultant. The three expert groups maintain regular contact with one another and with the United Nations Office on Drugs and Crime in order to review the reporting status of these States.

105. The Team continues to coordinate its travel plans with the Counter-Terrorism Committee Executive Directorate and to exchange information prior to and after their respective trips. The Team has now made nine joint visits with the Directorate, and although such joint trips allow less in-depth discussion of issues specific to the sanctions regime, they are useful in allowing a full explanation of action taken by the Security Council to counter terrorism for officials who may be unfamiliar with its range and confused about the differences between the Committee and the Counter-Terrorism Committee.

# IX. Reporting by Member States

## A. Reports submitted under resolution 1455 (2003)

106. The submission by the Comoros of its report on 29 February 2008 brought the number of reports received under resolution 1455 (2003) to 153.

107. Resolution 1455 (2003), in which the Security Council called upon all States to submit a written report to the Committee, was intended to help the Committee to make an assessment of the overall status of implementation. In paragraph 17 of its resolution 1617 (2005), the Security Council called upon the Committee to provide the Council with an updated written assessment of the actions taken by Member States to implement the sanctions; this assessment was submitted to the Council in December 2006 (S/2006/1046).

108. Between January 2007 and March 2008, only four additional States, including the Comoros, submitted their reports under resolution 1455 (2003).[71] It is unlikely that the Committee will wish to update its assessment to the Security Council based on such a small sample. Furthermore, some of the remaining non-reporting States may well be States from which the Committee most needs to hear. The reports submitted under resolution 1455 (2003) are one of the best ways for Member States to inform the Committee of the gaps and challenges they encounter in their efforts to implement the sanctions measures; without this information, these problems remain unaddressed and the impact of the sanctions measures is undermined. Given the importance of these reports, the Team recommends that the Committee consider approaching each of the remaining 39 non-reporting States, or meet them within their regional or subregional groupings: Asia (7), Africa (23), and Latin America and the Caribbean (9). In the meantime, the Team will continue its own efforts to engage with non-reporting States wherever possible.[72]

## B. Checklist

109. The purpose of the checklist was not to introduce another reporting round but to provide a means by which the Committee could remind States of the need to ensure the implementation of the sanctions measures against new names added to the List. Although the Security Council in paragraph 10 of resolution 1617 (2005) suggested that the Committee would ask for further completed checklists, only one was ever requested. Between 31 January 2006, the end of the checklist reporting period, and 31 March 2008, there were 41 updates to the List. In addition to the many changes to identifying information, 32 new names have been added, 15 names removed and 2 names merged.

110. The number of checklists received is at present 58, leaving 134 States yet to report, two years after the deadline of 10 March 2006. Since then, much of the information regarding the 24 names referred to in the checklist has changed. Six of the names are no longer the same, permanent reference numbers and versions of the

[71] For 2007, Tuvalu, Uruguay and Vanuatu. For 2008, the Comoros.

[72] The Team notes that 36 of these 39 States have also not reported to the Committee under the previous resolutions, but all have submitted at least one report to the Counter-Terrorism Committee; 27 are late in submitting reports to all three committees.

names in their original script have been added, and one name has been removed from the List.

111. The Team does not recommend reissuing the checklist, but as the Committee still needs updated information from Member States on changes to their legal framework for implementation, the legal challenges they may have faced, and additional or new action taken with regard to freezing assets or the movement or location of listed individuals, the Team considers that a substitute reporting tool would be useful. It has accordingly made several suggestions to the Committee for a new mechanism that States could use on a voluntary and informal basis. The suggestions remain under consideration by the Committee.

# X. Other issues

## Committee's website

112. The Team has previously reported many additions to the Committee's website. However, Member States are not always aware of these new documents and of web links designed to help them to understand their obligations under the Al-Qaida and Taliban sanctions regime and to offer advice for more effective implementation.[73] Some Member States have said that they have been unable to locate key documents and that prior familiarity with the website is required to use it effectively. The Team therefore recommends that the Committee advertise the changes to its website and the key documents it contains in a single-page format or as a one-page index for ease of reference by Member States and international and regional organizations. A possible example is attached as annex II to the present report. The Committee may also see value in introducing an appropriate tool, such as a hit counter, to track the use of its website and to ensure that it is fulfilling its intended purpose.

[73] For example, the explanation of terms concerning the arms embargo; the guidance for making searches of the List; the five fact sheets on listing, de-listing the exemptions from the travel ban, assets freeze and updating the Consolidated List; and the INTERPOL-United Nations Security Council special notices on the INTERPOL website.

# Annex I

## Litigation by or relating to individuals on the Consolidated List

1. The number of past and present legal challenges to the sanctions known to the Monitoring Team remains at 26.[a]

**European Union**[b]

2. The field of legal challenges remains dominated by appeals before the Court of Justice of the European Communities by Yasin Abdullah Ezzedine Qadi (QI.Q.22.01) and Barakaat International Foundation (QE.B.39.01). Pending decision on these two cases, appeals by Shafiq ben Mohamed ben Mohamed al-Ayadi (QI.A.25.01) and Faraj Faraj Hussein al-Sa'idi (QI.A.137.03) remain stayed. The case brought by Uthman Omar Mahmoud (QI.M.31.01) in 2001 remains pending before the Court of First Instance,[c] as do the four cases brought in 2006 by Abd al-Rahman al-Faqih (QI.A.212.06), Sanabel Relief Agency Limited (QE.S.124.06), Ghuma Abd'Rabbah (QI.A.211.06) and Tahir Nasuf (QI.N.215.06).[d]

3. Also notable is a recent opinion by the Court of Justice of the European Communities in a case involving an attempted transaction with a listed person. In *Möllendorf*, the Court, on request for a preliminary ruling from a German court, considered whether sellers of real estate to a partnership including Aqeel Abdulaziz Aqeel al-Aqeel (QI.A.171.04) were precluded by European sanctions regulations from registering the change of ownership in a land registry even though the sale contract for the property and agreement to transfer ownership had been concluded before Aqeel* was listed. The court concluded that article 2(3) of regulation EC 881/2002, which provides that "[n]o economic resources shall be made available, directly or indirectly, to, or for the benefit of a listed person so as to enable that person, group or entity to obtain funds, goods or services", prohibited the registration.[e] The Court of Justice referred back to the German court the question of whether a requirement under national law that the sellers refund the purchase price for such an incomplete sale disproportionately infringed their right to disposal of property.[f]

**Pakistan**

4. The action brought by the Al Rashid Trust (QE.A.5.01) continues in the Supreme Court of Pakistan on the Government's appeal from a 2003 adverse decision. The challenge brought by the Al-Akhtar Trust International (QE.A.121.05) continues before a lower court.[g]

---

[a] The Team's seventh report contained a list of cases as at 30 September 2007 (S/2007/677, annex I).

[b] Cases and judgements available at curia.europa.eu/en/content/juris/index.htm.

[c] Case T-318/01, Uthman v. Council and Commission.

[d] Respectively, Cases: T-135/06, Al-Faqih v. Council; T-136/06, Sanabel Relief Agency Ltd v. Council; T-137/06, Abd'rabbah v. Council; and T-138/06, Nasuf v. Council.

[e] Case C-117/06, judgement of 11 October 2007, in particular paras. 11, 60 and 80.

[f] Ibid., in particular paras. 60 and 74-80.

[g] Information provided by authorities in Pakistan; see also S/2007/677, annex I, para. 4.

**Switzerland**

5. On 14 November 2007, the Federal Tribunal in Lausanne, the highest court in Switzerland, rejected the challenge by Youssef Nada Ebada (QI.E.53.01) to the imposition of sanctions against him.[h] Nada has indicated that he will challenge this decision before the European Court of Human Rights.[i] A similar suit by Ali Ghaleb Himmat (QI.H.43.01) remains pending before the Federal Tribunal.[j]

**Turkey**

6. Following the de-listing of Nasco Nasreddin Holding A.S. (QE.N.81.02) on 14 November 2007,[k] Turkey's Council of Ministers in January 2008 amended domestic decrees to remove this entity from sanctions. However, the company's challenge to the sanctions remains pending on appeal before Turkey's Administrative Cases Bureau, the highest reviewing body for challenges to Cabinet decisions.[l] Yasin Abdullah Ezzedine Qadi* has asked that same tribunal to reconsider a February 2007 decision upholding the freezing of his assets.

**United States of America**

7. In the challenge by the Al-Haramain Foundation (United States of America) (QE.A.117.04) to alleged unlawful government surveillance (S/2007/677, annex I, para. 10), the appellate court held on 16 November 2007 that the state secrets privilege asserted by the Government prevented the case from going forward, unless the plaintiffs could demonstrate that national surveillance laws pre-empted it, and remanded it to the lower court for further proceedings on this issue.[m] The Government has moved for dismissal or summary judgement of the separate action filed by the same organization in federal district court in Oregon.[n] Al-Haramain's response to the motion is due on 24 April 2008.[o]

8. The case brought by former Al-Haramain chairman Aqeel Abdul Aziz al-Aqeel* remains pending in federal district court, awaiting the court's decision on the Government motion to dismiss.[p] Finally, a grand jury has returned an indictment against listed individual and former Al-Haramain officer Suliman Hamd Suleiman al-Buthe (QI.A.179.04). The indictment charges Al-Buthe* with smuggling cash and negotiable instruments out of the country.[q]

---

[h] Case 1A.45/2007, judgement available on the website of the Federal Tribunal of Lausanne at www.bger.ch/index/jurisdiction/jurisdiction-inherit-template/jurisdiction-recht/jurisdiction-recht-urteile2000.htm.

[i] Information provided by authorities in Switzerland.

[j] Ibid.; see also S/2007/677, annex I, para. 5.

[k] See Committee press release SC/9172.

[l] Information provided by authorities in Turkey.

[m] Al-Haramain Is'amic Foundation v. Bush, 507 F.3d 1190, 1202-04 (9th Cir. 2007).

[n] Information provided by authorities in the United States of America; see also S/2007/677, annex I, para. 9.

[o] Information provided by authorities in the United States of America.

[p] Ibid.; see also S/2007/132, annex I, para. 12.

[q] United States of America v. Al-Buthe, CR 05-6008-HO (United States District Court, District of Oregon, 21 September 2005).

# Annex II

## Selected documents of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban

**Committee home page, general information and most recent news**

www.un.org/Docs/sc/committees/1267Template.htm

www.un.org/sc/committees/1267/information.shtml

www.un.org/sc/committees/1267/latest.shtml

**E-mail addresses for the Committee and the Monitoring Team**

SC-1267-Committee@un.org

1267mt@un.org

**Resolutions and guidelines on the conduct of the work of the Committee**

www.un.org/sc/committees/1267/resolutions.shtml

www.un.org/Docs/sc/committees/1267/1267_guidelines.pdf

**Consolidated List and guidance for searching the List**

www.un.org/Docs/sc/committees/1267/consolist.shtml

www.un.org/sc/committees/1267/pdf/sguidance.pdf

**Fact sheets on listing, updating the List and standard form for submissions**

www.un.org/sc/committees/1267/fact_sheet_listing.shtml

www.un.org/sc/committees/1267/fact_sheet_consolidated_list.shtml

www.un.org/sc/committees/1267/pdf/coversheet.pdf

**Fact sheets on de-listing, the focal point and standard form for de-listing requests**

www.un.org/sc/committees/1267/fact_sheet_delisting.shtml

www.un.org/sc/committees/dfp.shtml

www.un.org/sc/committees/1267/pdf/De-listing%20form%20-%20English.pdf

**Note verbale on procedures for removing deceased persons from the List**

www.un.org/sc/committees/1267/deceased_individuals.shtml

**Exemptions from the travel ban and assets freeze**

www.un.org/sc/committees/1267/fact_sheet_travel_ban.shtml

www.un.org/sc/committees/1267/fact_sheet_assets_freeze.shtml

**Arms embargo explanation of terms paper**

www.un.org/Docs/sc/committees/1267/ArmsEmbargo.ExplanationTermsEng.pdf

**Experience of Member States in implementing the Al-Qaida and Taliban sanctions measures**

www.un.org/sc/committees/1267/ExperiencesofMemberStates.pdf

**INTERPOL-United Nations Security Council special notices**

www.interpol.int/Public/NoticesUN/Default.asp